

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DEBRA M. TOZZER,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social
Security,

Defendant.

No. CV-09-5017-JPH

ORDER GRANTING STIPULATED
MOTION FOR REMAND (Ct. Rec.
17)

The parties have filed a stipulated motion for remand of this case to the Commissioner for further administrative proceedings. (Ct. Rec. 17). The parties have filed a consent to proceed before a magistrate judge. (Ct. Rec. 6).

After considering the stipulation, **IT IS ORDERED** that the above-captioned case be remanded for a *de novo* hearing pursuant to sentence four of 42 U.S.C. § 405(g). Upon remand, the Administrative Law Judge will hold a new hearing and issue a new decision. The ALJ will reconsider the medical and other source evidence of record, and explain the weight given to the evidence, pursuant to applicable regulations. The ALJ will re-evaluate plaintiff's credibility and her residual functional capacity. The

ORDER GRANTING STIPULATED MOTION
FOR ORDER TO REMAND - 1

1 ALJ will reevaluate plaintiff's capacity to perform her past
2 relevant work, and, as needed, other work, at step five of the
3 sequential process, obtaining vocational expert testimony, if
4 necessary. On November 17, 2008, plaintiff filed new disability
5 claims, which have been denied at the initial and reconsideration
6 levels. The ALJ will consolidate the new claims, consider the new
7 evidence, and issue a new decision on the associated claims. The
8 ALJ will take any other actions necessary to develop the record.
9 Plaintiff will be afforded the opportunity to submit additional
10 evidence and argument.

11 This remand is pursuant to sentence four of 42 U.S.C. §
12 405(g) with a remand of the cause to the Commissioner for further
13 proceedings. *See, Melkonyan v. Sullivan*, 501 U.S. 89 (1991).
14 Plaintiff is entitled to reasonable attorney's fees and costs
15 pursuant to 28 U.S.C § 2412(a),(d), upon proper request to this
16 Court.

17 Accordingly, this court **reverses** the Commissioner's decision.

18 **IT IS FURTHER ORDERED:**

19 1. The parties' stipulated motion for an order of remand
20 (**Ct. Rec. 17**) is **GRANTED**.

21 2. Judgment shall be entered for the **PLAINTIFF**.

22 3. An application for attorney fees and costs may be
23 filed by separate motion.

24 4. The District Court Executive is directed to enter
25 this Order, forward copies to counsel, and **close** this file.

26 **IT IS SO ORDERED.**

27 **DATED** this 15th day of September, 2009.

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s/James P. Hutton
JAMES P. HUTTON
UNITED STATES MAGISTRATE JUDGE